

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 03-1776**

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In Re: ALAN J. CILMAN,

Debtor,

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ALAN J. CILMAN,

Plaintiff - Appellant,

versus

MARIN COUNTY DISTRICT ATTORNEY; VIRGINIA  
DEPARTMENT OF SOCIAL SERVICES, Child Support  
Enforcement,

Defendants - Appellees.

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Appeal from the United States District Court for the Eastern  
District of Virginia, at Alexandria. Gerald Bruce Lee, District  
Judge. (CA-03-272-A; BK-01-12387; AP-02-08114-RGM)

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Submitted: December 18, 2003

Decided: January 14, 2004

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Before LUTTIG, SHEDD, and DUNCAN, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Alan J. Cilman, Appellant Pro Se. Kevin Osborne Barnard, Edward  
Meade Macon, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond,  
Virginia; Tex Ritter, DEPARTMENT OF CHILD SUPPORT SERVICES, Novato,  
California, for Appellees.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

Alan J. Cilman appeals from the district court's order affirming the order of the bankruptcy court dismissing without prejudice his complaint against the Virginia Department of Social Services and the Department of Child Support Services for the County of Marin, California. Because the action was dismissed without prejudice, it is not appealable. See Domino Sugar Corp. v. Sugar Workers' Local Union 392, 10 F.3d 1064, 1066-67 (4th Cir. 1993). A dismissal without prejudice is a final order only if "no amendment [in the complaint] could cure the defects in the plaintiff's case.'" Id. at 1067 (quoting Coniston Corp. v. Village of Hoffman Estates, 844 F.2d 461, 463 (7th Cir. 1988)). In ascertaining whether a dismissal without prejudice is reviewable in this court, the court must determine "whether the plaintiff could save his action by merely amending his complaint." Domino Sugar, 10 F.3d at 1066-67. In this case, Cilman may move in the bankruptcy court to reopen his case and to file an amended complaint in which he may be able to assert claims not barred by sovereign immunity. Therefore, the dismissal order is not appealable. Accordingly, we dismiss the appeal for lack of jurisdiction. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED